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LAND USE PLANNING COMMISSION
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Memorandum

To: LUPC Commissioners
From: Stacie R. Beyer, Chief Planner
Date: September 7, 2016
Re: Materials to Read Prior to the September 28 Carroll Plantation Substantive Review Hearing:
Summary and Full Copy of Pre-filed Testimony as of August 3, 2016

At its March 9, 2016 regular business meeting, the Commission decided to hold a public hearing for all substantive reviews of petitions to remove specified places from the Expedited Permitting Area for Wind Energy Development. The first public hearing, for the substantive review of the Milton removal petition, was held on August 10, 2016. The public hearing for the only other substantive review request received by the Commission, the removal petition for Carroll Plantation, is scheduled for September 28, 2016.

Pre-hearing submissions were filed by the Requestors, 7 interested persons, 8 government agencies, and LUPC staff in response to the first procedural order for the Carroll hearing. LUPC staff has prepared a summary of the pre-filed submissions, included as Attachment A. The summary is intended to help the Commission, LUPC staff and the public orient to the pre-filed testimony and comments, and the relevant evidence submitted for consideration. This summary is not intended to substitute for reading all of the testimony in the record, which is provided on the FTP site for your review. In addition, there is a reference to the pertinent decision making criteria included with this memo as Attachment B.

The LUPC is still accepting public comment on the Carroll removal petition. The comments that have been organized and summarized for your use in preparing for the public hearing include only those received by the August 3, 2016 pre-hearing submission deadline. Written comments from the public will continue to be accepted until the public comment deadline, which ends October 10, 2016.

Attachment A: LUPC Summary of Pre-filed Testimony
Attachment B: Decision Making Criteria Reference

Land Use Planning Commission

Petition to Remove Carroll from the
Expedited Permitting Area for Wind Energy Development;
Substantive Review

Attachment A

LUPC Summary of Pre-filed Testimony

Land Use Planning Commission

Summary of Pre-filed Testimony

Petition to Remove Carroll Plantation from the Expedited Permitting Area for Wind Energy Development

This is a brief overview of the testimony filed by the pre-hearing submission deadline of August 3, 2016 for the hearing on the petition to remove Carroll Plantation from the expedited permitting area for wind energy development. It is intended to help the Commission, LUPC staff and the public orient to the pre-filed testimony and the relevant evidence submitted, particularly focused on the Goals of Particular Note from the LUPC's *Overview of the Process* document, December 2015. This summary is not intended to substitute for reading all of the testimony in the record.

CRITERIA A

AVAILABLE SITES

There was no pre-filed testimony on the availability of sites for wind energy development submitted for the Carroll removal petition.

STATE ENERGY GOALS

The Partnership for the Preservation of the Downeast Lakes Watershed (PPDLW or Partnership) testifies that removing Carroll Plantation from the expedited wind permitting area would not have an unreasonable adverse effect on the State's ability to meet its goals for wind energy development. They testify, given the history of wind energy development proposals in the southern part of Carroll, any new proposal would need to be small and it is unlikely that it could contribute more than 1% of the State's goal for wind energy development. PPDLW also provides an exhibit showing the status of wind development in Maine as of July 2016 that lists wind projects that are operational, under construction, and proposed with the exhibit indicating a total of 3285 MW of generating capacity.

The Maine DEP provides data on 14 wind energy developments within their jurisdiction that are operational, under construction or under review. The total generation capacity shown by the DEP's data for projects that are operational or under construction is 679 MW. LUPC staff pre-filed data on four wind energy developments operating within the Commission's service area with installed capacity of 249 MW. The total generating capacity (nameplate) from this data is 927MW.

WIND RESOURCE

PPDLW contends that the wind resource in Carroll Plantation is not sufficient to support an economically viable wind project. They base their comments on data from the National Renewable Energy Laboratory showing an average annual wind speed in Carroll of only 5.5 – 6.0 m/s. They quote pre-filed testimony by EverPower Wind Holdings for the Milton removal petition that indicates a need for a minimum wind speed of 6.5 - 7.0 m/s for a competitive wind project. The Partnership also quotes EverPower in terms of turbine layout, and concludes that a wind project in Carroll would be hampered by the fact that its ridgeline runs east/west as opposed to the north/south layout of existing wind projects that, PPDLW states, capture the prevailing winds of eastern Maine.

TRANSMISSION CAPACITY

ISO-NE provides an overview of the existing transmission system and constraints in Maine. They comment that the transmission system in Maine is limited in places and faces numerous transmission

security concerns, which could include lines that overheat when overloaded leading to damaged equipment. Further, the system often exceeds its ability to accommodate all the electricity produced. In some instances, ISO-NE reports having to curtail generators in the northern areas of the region because more power is being produced than the small, long transmission lines can handle safely. They conclude, “The existing transmission system in Maine was built to serve minimal local load and it is at its limit with no remaining margin. Significant infrastructure is needed to integrate the quantity of proposed new wind generation in Maine.”

PUBLIC RESOURCE VALUES

PPDLW testifies that the only significant elevations in Carroll are in the southern third of the plantation, south of Route 6, and contends that any wind project in Carroll will impose its greatest negative impacts on the adjacent Downeast Lakes Region, an area, they conclude, the legislature specifically intended to protect. They state the hilliest part of Carroll is a small peninsula of expedited area extending into the un-expedited area around the Downeast Lakes.

CRITERIA B

LOCATION OF DEVELOPMENT

Speaking to the protection of recreational resources, the PPDLW points out the network of lakes that, they testify, represent a higher value due to the rare opportunity for extended loop paddles on multiple lakes rated outstanding or significant for their scenic resource value. They contend that wind energy development in Carroll would severely impact recreational resources in the region.

ECONOMIC VALUE/ ECONOMIC DEVELOPMENT

The Requestors testify on the importance of new economic development for the Plantation and the need for local jobs, especially with the decline in the forest industry and manufacturing. They comment that zoning laws should not be changed on the basis of potential scenic impact or fear of change causing unnecessary burden on businesses that could provide opportunity in the area.

PPDLW comments that the local economy is unusually dependent on tourism and concludes that a wind energy development in Carroll would cause irreparable damage to the existing tourism economy. They contend that economic benefits from a wind project would be limited while the scenic/ economic damages would be significant. They reference PPDLW and Kleinschmidt User surveys, which, they assert, show a wind project in Carroll would have significant impacts on the quality of resource users’ experience and their likelihood of returning.

Michael and Robin Corbin comment that other wind power projects have provided jobs for local residents and attracted visitors from away, boosting the local economy.

Susan Osgood also comments that wind energy development would provide an economic boost.

Frederick Costlow testifies that claims of large numbers of jobs have not materialized, and that after construction wind facilities are manned by skeleton staff. He further comments that Maine derives a huge economic benefit from its natural beauty and landscape, and the local area is dependent on its natural beauty for sustainable income into the future.

INFRASTRUCTURE

PPLDW testifies that Carroll, in its fairly remote location, lacks much in the way of infrastructure.

LAND CONSERVATION

The PPDW quotes the Governor’s Wind Task Force on its reasoning for places being excluded from the expedited permitting area, specifically choosing “broad areas that encompass concentrations of ecological, recreational and/or scenic values that are among the most significant in the jurisdiction,” and concludes that the Downeast Lakes Region is one of those areas. They describe land conservation in the area and particularly the work of the Downeast Lakes Land Trust.

AGRICULTURAL RESOURCES

The Requestors provide a list of agricultural resources in Carroll including one farmer that plants fields for potatoes or corn in the plantation, and a local deer farm. They contend that having a vote on a hypothetical expedited area for deer farms would be similar to the petition to remove a place from the expedited area for wind energy development.

AIR AND CLIMATE RESOURCES

There was no pre-filed testimony relating to air and climate resources submitted for the Carroll removal petition.

CULTURAL, ARCHAEOLOGICAL AND HISTORIC RESOURCES

The Requestors question the value of the sacred ground in Carroll contending that it couldn’t be that sacred if the land was sold.

The PPDW states that the region around Carroll was an ancient crossroads for Wabanaki people, containing native artifacts and ceremonial sites. They reference information in the administrative records for the Bowers Wind project, including the testimony of the Historic Preservation Officer for the Passamaquoddy Tribe, on areas set aside for traditional cultural activities, and the Tribe’s concern that a wind project would have a harmful effect on those activities. Also referenced is a letter from the Maine Indian Tribal-State Commission on the Wabanaki Tribes’ concern about potential visual impacts of a wind project on a Wabanaki repatriation site, burial grounds and ceremonial grounds.

The Maine Historic Preservation Commission comments that there has never been any survey work for and there are no known archaeological resources within Carroll. They report 3 properties determined to be eligible for listing on the National Register of Historic Places. Portions of the township were surveyed for buildings during Stetson I Wind project development.

ENERGY RESOURCES

The Requestors comment that no one uses water power in the region anymore.

Carol Graybeal comments that other energy sources are much more harmful to the environment and dangerous to humans. She indicates that it is time to embrace wind energy as a naturally renewable environmentally friendly safe energy source.

FOREST RESOURCES

PPDLW comments that the roads and crane paths from a wind energy development would be visible on the landscape when viewed from Route 6, and that construction would diminish the sense of an undeveloped remote landscape that the forest resource creates.

GEOLOGIC RESOURCES

There was no pre-filed testimony relating to geologic resources submitted for the Carroll removal petition.

HIGH-VALUE NATURAL RESOURCES/ PLANT AND ANIMAL HABITAT RESOURCES

The Requestors comment that regrowth after clearing for wind energy development will provide food for wildlife.

The PPDLW lists the high-value natural resources of Carroll as including lakes, ponds, streams, warm and cold-water fisheries, bald eagle nest sites, land for hunting, forestlands, rock outcroppings and glacial eskers, as well as primitive island campsites available to the public and easement lands owned by the Downeast Lakes Land Trust. The Partnership testifies that removing Carroll from the expedited area will protect the diverse, abundant and unique high-value natural resources and features of the area.

Susan Osgood comments that wind projects have created animal-friendly power line right-of-ways.

The Maine Natural Areas Program (MNAP) provides information on plant resources in Carroll Plantation. They report that comprehensive field surveys do not exist for all natural areas in Maine; therefore, MNAP cannot provide a definitive statement on the presence or absence of unusual natural features within Carroll. However, they have map data for one natural community, a 563 acre eccentric bog, and several rare plant populations including Male Wood Fern and Large Toothwort, Swamp Honeysuckle, and Orono Sedge. MNAP concludes they have no concern with the petition to remove Carroll from the expedited area.

The Department of Inland Fisheries and Wildlife (IF&W) provides a list of 10 endangered, threatened, and special concern (ET&SC) species confirmed or likely to be present in Carroll. IF&W comments that wind power development impacts on wildlife species of concern have been documented not only in Maine but also across the country. They conclude that such impacts would not be unique to Carroll. In particular, IF&W states that wind power development is documented to have caused mortality in bats, and projects without adequate curtailment practices have impacted ET&SC bats. However, they report that these concerns are not limited to Carroll, and they would make recommendations to avoid and minimize potential impacts as they have done in other areas. Although there is no documented evidence of nesting activity, IF&W notes there has been definitive evidence of at least one Golden eagle, a very rare bird in Maine, in the vicinity of Carroll Plantation. They report no documented Golden eagle mortalities from wind projects in Maine, but indicate mortalities have been documented elsewhere in the country. According to IF&W, significant wildlife habitat in Carroll includes: a zoned deer wintering area, several mapped moderate and high value inland waterfowl and wading bird habitats, at least two mapped significant vernal pools, and numerous perennial and intermittent cold water streams. IF&W provides recommendations on minimizing impacts to deer wintering areas, inland waterfowl wading bird habitats, significant vernal pools, and fisheries that they state are also not unique to Carroll.

RECREATIONAL OPPORTUNITIES/ RECREATIONAL RESOURCES

The Requestors comment that Silver Lake in Lee is still used for fishing and pleasure, and that recreational users do not pay attention to the existing wind turbines visible from the lake, including the aviation lighting. They list historic and current recreational opportunities in Carroll including ATV use, snowmobiling, swimming, boating, camping, playing ball, skiing, and horseback riding. They also state that roads constructed for wind energy development would provide access for recreation, including hunting, fishing, picnicking, weddings, and enjoying scenic views.

The PPDLW describes the recreational opportunities in the Downeast Lakes region stating that the region has “an international reputation for providing outstanding outdoor experiences in a near-wilderness setting” and that the nine scenic resources of state or national significance (SRSNS) lakes provide waters that allow for extended loop-paddling experiences. The Partnership recognizes that construction of roads for a wind project may increase roads available to ATV riders and snowmobilers, but references user surveys that, they contend, show recreational users of the lakes would be less likely to use the resources after construction of a wind project. They conclude that removing Carroll from the expedited area will ensure that the region continues to offer diverse and abundant recreational opportunities.

Susan Osgood provides that, with wind energy development, recreationalists can still use the lakes and forests, and enjoy nature.

Donald Moore testifies that inclusion of Carroll in the expedited area was an oversight, stating concerns about the impact of lighting and clearcuts on the SRSNS lakes and the wilderness-like area visited by outdoor enthusiasts.

Frederick Costlow states that property in Carroll provides camps, and recreational opportunities because they view the lake and concludes that the line for the expedited area should have been drawn at Route 6.

The Maine Bureau of Parks and Lands comments that “Carroll Plantation is situated in a generally low region of the State of Maine, though modest hills and mountains do rise in the plantation’s southern half below State Route 6.” They provide that Carroll does not include state or federally-owned recreational assets, but that it is adjacent to nature-based outdoor recreation assets. BPL describes the publically accessible conservation lands and recreational resources, and state-funded snowmobile and ATV trails in the region. BPL notes that the region south and east of Carroll is highly significant from a conservation standpoint, and that a large swath of land has been protected, underpinning the region’s capacity to provide “(predominantly) primitive, disperse recreation in remote settings”. BPL also comments on water-based recreation being the “calling card” of the region, the concentration of lakes with high scenic and recreational value proximal to Carroll, and the development of the Downeast Lakes Water Trail which takes advantage of the connectivity between several of the lakes in the area. In summary, their comments conclude that Carroll Plantation is embedded in a region of the state significant for its water-based recreation and with “an undeveloped character that underpins opportunities for primitive recreation experiences in which solitude and scenic beauty are notable values.”

NATURAL CHARACTER/ SCENIC RESOURCES

The Requestors question the difference in scenic impact between existing, permitted wind energy development and any new project that may be proposed in Carroll Plantation, contending that a proposed wind project in Carroll would not have an adverse impact on scenic resources and recreational activities. They comment that wind projects attract visitors and create road access to new places for scenic views. The Requestors also testify that forest regrowth will aid in buffering any scenic impacts of towers on local mountains. They contend that other types of land uses such as agriculture and other energy projects (natural gas) have impacts on natural character as well. In their testimony, the Requestors list a number of scenic resources in the area, including Almanac Mountain, Patty’s Falls, and Vinegar Hill. They also discuss fishing on Junior and Scraggly Lakes, Junior Bay, and Bottlelake Stream, concluding that there is so much scenery around the shores and islands, as well as challenging navigation, that users do not have time to look at the sky line.

PPDLW includes a quote from the LUPC Comprehensive Land Use Plan (CLUP) and comments that the CLUP recognizes the Downeast Lakes region for its natural features and fisheries. Referencing past user surveys again, the Partnership states that people who use the SRSNS lakes expect a high quality experience and would recreate elsewhere, if turbines were visible, adversely impacting the local economy, professional guides, and small businesses. They testify that Carroll is located in a largely agricultural and sparsely developed area, that travelers along State Route 6 enjoy a close view of Bowers Mountain and its associated hills, and that removing Carroll from the expedited area will add an additional layer of approval before a wind energy project can be developed.

Susan Osgood comments that she doesn’t find wind projects to be a visual impairment, that the lakes region will still be beautiful, and that wind projects attract visitors from out-of-town.

Paula Moore asks that the Commission examine how a wind proposal would affect the areas in very close proximity, particularly the SRSNS lakes and neighbors to the project.

WATER RESOURCES

PPDLW testifies that, in addition to the SRSNS lakes to the south, several brooks in Carroll provide habitat for native Brook trout that would be vulnerable to siltation from construction activities.

REVIEW PROCESSES AND THE EXPEDITED WIND AREA

The Requestor comments that the removal of Carroll from the expedited area for wind energy development is an important issue and contends that it should be discussed by all the residents of Carroll.

Susan Osgood also states that the fate of Carroll should be decided by its residents.

Land Use Planning Commission

Petition to Remove Carroll from the
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Attachment B

Decision Making Criteria Reference

Land Use Planning Commission

Decision Making Criteria Reference

Substantive Review of Removal Petitions

Title 35-A

Section 3453-A(3) contains two statutory criteria; both must be met during the substantive review process to remove a place from the expedited area.

Criterion A. The proposed removal will not have an unreasonable adverse effect on the State's ability to meet the state goals for wind energy development in section 3404, subsection 2, paragraph C.

Criterion B. The proposed removal is consistent with the principal values and the goals in the comprehensive land use plan adopted by the Maine Land Use Planning Commission pursuant to Title 12, section 685-C.

Section 3404, subsection 2, paragraph C includes the following wind energy generation goals:

A. At least 2,000 megawatts of installed capacity by 2015;

B. At least 3,000 megawatts of installed capacity by 2020, including 300 megawatts or more from generation facilities located in coastal waters, as defined by Title 12, section 6001, subsection 6, or in proximate federal waters; and

C. At least 8,000 megawatts of installed capacity by 2030, including 5,000 megawatts from generation facilities located in coastal waters, as defined by Title 12, section 6001, subsection 6, or in proximate federal waters.

LUPC Comprehensive Land Use Plan

All of the principal values and some of the goals contained in the Comprehensive Land Use Plan (CLUP) are relevant to the expedited area removal process. A subset of the CLUP goals that are of particular note is listed below to assist in the review of materials submitted to the Commission as part of its substantive review process. The Commission may determine other goals are pertinent to a substantive review of a removal petition. All of the broad and specific goals of the Commission are discussed in Chapter 1.2 of the CLUP.

Principal Values

The economic value of the jurisdiction derived from working forests and farmlands, including fiber and food production, largely on private lands. This value is based primarily on maintenance of the forest resource and the economic health of the forest products industry. The maintenance of farmlands and the viability of the region's agricultural economy is also an important component of this value.

Diverse and abundant recreational opportunities, including many types of motorized and non-motorized activities. Unique opportunities exist for recreational activities which require or are

significantly enhanced by large stretches of undeveloped land, ranging from primitive recreation in certain locations to extensive motorized trail networks. Recreation is increasingly an economic driver in the jurisdiction and the State.

Diverse, abundant and unique high-value natural resources and features, including lakes, rivers and other water resources, fish and wildlife resources, plants and natural communities, scenic and cultural resources, coastal islands, mountain areas and other geologic resources.

Natural character, which includes the uniqueness of a vast forested area that is largely undeveloped and remote from population centers. Remoteness and the relative absence of development in large parts of the jurisdiction are perhaps the most distinctive of the jurisdiction's principal values, due mainly to their increasing rarity in the Northeastern United States. These values may be difficult to quantify but they are integral to the jurisdiction's identity and to its overall character.

Goals of Particular Note:

I.A. LOCATION OF DEVELOPMENT

Goal: Guide the location of new development in order to protect and conserve forest, recreational, plant or animal habitat and other natural resources, to ensure the compatibility of land uses with one another and to allow for a reasonable range of development opportunities important to the people of Maine, including property owners and residents of the unorganized and deorganized townships.

I.B. ECONOMIC DEVELOPMENT

Goal: Encourage economic development that is connected to local economies, utilizes services and infrastructure efficiently, is compatible with natural resources and surrounding uses, particularly natural resource-based uses, and does not diminish the jurisdiction's principal values.

I.D. INFRASTRUCTURE

Goal: Ensure that infrastructure improvements are well planned and do not have an adverse impact on the jurisdiction's principal values.

II.A. AGRICULTURAL RESOURCES

Goal: Conserve and protect working farms, encourage the development of new farming enterprises, and conserve agricultural soil resources.

II.B. AIR AND CLIMATE RESOURCES

Goal: Protect and enhance the quality of air and climate resources throughout the jurisdiction.

II.D. CULTURAL, ARCHAEOLOGICAL AND HISTORICAL RESOURCES

Goal: Protect and enhance archaeological and historical resources of cultural significance.

II.E. ENERGY RESOURCES

Goal: Provide for the environmentally sound and socially beneficial utilization of indigenous energy resources where there are not overriding public values that require protection.

II,F. FOREST RESOURCES

Goal: Conserve, protect and enhance the forest resource in a way that preserves its important values, including timber and fiber production, ecological diversity, recreational opportunities, as well as the relatively undeveloped remote landscape that it creates.

II,G. GEOLOGIC RESOURCES

Goal (pertaining to mountain resources): Conserve and protect the values of high-mountain areas from undue adverse impacts.

II,H. PLANT AND ANIMAL HABITAT RESOURCES

Goal: Conserve and protect the aesthetic, ecological, recreational, scientific, cultural and economic values of wildlife, plant and fisheries resources.

II,I. RECREATIONAL RESOURCES

Goal: Conserve the natural resources that are fundamental to maintaining the recreational environment that enhances diverse, abundant recreational opportunities.

II,J. SCENIC RESOURCES

Goal: Protect the high-value scenic resources of the jurisdiction by fitting proposed land uses harmoniously into the natural environment.